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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/791,428

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EXAMINER

LEE, CYNTHIA K

ART UNIT

PAPER NUMBER

1795

MAIL DATE

DELIVERY MODE

01/07/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/791,428	Applicant(s) WHEAT ET AL.	
	Examiner CYNTHIA LEE	Art Unit 1795	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 October 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 23-34 and 47-53 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 23-34 and 47-53 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Amendment

This Office Action is responsive to the Arguments filed on 10/24/2008. Claims 23-34 and 47-53 are pending. Applicant's arguments have been fully considered and are not persuasive. Claims 23-34 and 47-53 are finally rejected for reasons of record.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 23, 24, 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Mufford (US 6186254).

Refer to Fig. 1. Mufford discloses a fuel cell system comprising a fuel cell stack (30), an air supply (160), a water supply (175), a hydrogen supply (145), a heater (70) connected to an output of said stack to warm the stack and water supply and is external to the stack.

The heater is a resistor (4:23) (applicant's claim 24).

The resistor may be connected to receive electricity from shore power from for example, a shore power circuit, thereby allowing the resistor to function as a block heater that prevents the fuel cell stack from freezing and facilitates start-up in cold weather (4:35-38). The hydrogen supply system 145 and oxidant (in the illustrated embodiment the oxidant is air) supply system 160 are under the control of PLC 250

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(8:44-47). The controller necessarily controls the hydrogen and air supply to power the heater to warm the stack because the heater is powered by the fuel cell.

In operation, temperature sensor 255 provides the primary indicator of operating temperature of the fuel cell stack 30. The temperature sensed by temperature sensor 255 is used by the programmable logic controller 250 to determine the amount of heating or cooling of the cooling medium that is required to maintain the temperature of the fuel cell stack in its optimum operating range (7:33-35) (applicant's claim 26).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mufford (US 6186254) as applied to claim 23, in view of Nakanishi (US 6592741).

Mufford discloses all the elements of claim 23 and are incorporated herein.

Mufford does not disclose the element of claim 25. Nakanishi teaches a hydrogen reactor 23 provided with a hydrogen pressure sensor 11. Based on a value detected by the hydrogen pressure sensor 11, the amount of hydrogen produced in the reactor 23 can be detected. It would have been obvious to one of ordinary skill in the art at the time the invention was made to add a hydrogen pressure sensor and connect it to the

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controller of Mufford for the benefit of being able to know the amount of hydrogen on hand.

Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mufford (US 6186254) as applied to claim 23, in view of Wells (US 2004/0185316) and Ballentine (US 2002/0192467).

Mufford discloses all the elements of claim 23 and are incorporated herein. Mufford does not disclose an ambient temperature sensor. Wells teaches an ambient temperature sensor to monitor the ambient air temperature surrounding the fuel cell system [0062]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to add an ambient temperature sensor to monitor the ambient air temperature surrounding the fuel cell, as taught by Wells.

Mufford does not disclose a water tank sensor. Mufford discloses a water tank and a coolant path supplied by the water in the water tank (6:14-15). Mufford discloses a temperature sensor of the cooling medium 255 (fig 1 and 15-20). Ballentine teaches a water temperature sensor [0059]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to add a water temperature sensor to the system of Mufford for the benefit of being able to detect the water temperature to better control the temperature of the cooling medium.

Response to Arguments

Applicant's arguments filed 10/24/2008 have been fully considered but they are not persuasive.

Applicant argues that Mufford does not disclose a controller that controls a hydrogen supply and an air supply to power a heater to warm a fuel cell stack and a water supply while the vehicle is not running (emphasis in original) because Applicant asserts that Mufford states that the fuel cell power may be advantageously used to power the resistor soon after start-up to bring the fuel cell stack in operation (4:38-46).

The Examiner respectfully disagrees. The Examiner notes that 4:38-46 is only one embodiment of Mufford. Mufford also discloses that the resistor receives electricity from shore power to facilitate start-up of the fuel cell in cold weather (4:35-38), and thus the vehicle is not running.

Allowable Subject Matter

Claims 27, 28, 30-34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 47-53 are allowable.

The following is a statement of reasons for the indication of allowable subject matter:

Prior art does not suggest nor disclose "where said controller determines whether heating is necessary based on said stack temperature if said hydrogen pressure signal exceeds a first pressure value" (applicant's claim 27 and 47) or "wherein said controller uses said stack temperature signal, said ambient temperature signal and said water temperature signal to access a lookup table to determine whether heating is necessary

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when said pressure signal does not exceed a first pressure value" (applicant's claim 30).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cynthia Lee whose telephone number is 571-272-8699. The examiner can normally be reached on Monday-Friday 8:30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan can be reached on 571-272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Cynthia Lee/
Examiner, Art Unit 1795

/PATRICK RYAN/
Supervisory Patent Examiner, Art
Unit 1795